

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY)	MDL No. 1456
<u>AVERAGE WHOLESALE PRICE LITIGATION</u>)	
)	Civil Action No. 01-CV-12257 PBS
)	
THIS DOCUMENT RELATES TO)	Judge Patti B. Saris
<u>01-CV-12257-PBS AND 01-CV-339</u>)	Chief Magistrate Judge Marianne B. Bowler

**THE BMS DEFENDANTS' MOTION IN LIMINE
TO EXCLUDE ALL EVIDENCE RELATING TO APOTHECON INC.**

Pursuant to Rule 103 of the Federal Rules of Evidence, Defendants Bristol-Myers Squibb Company and Oncology Therapeutics Network Corporation (together “BMS”) respectfully move this Court to exclude all evidence relating to ApotHEcon, Inc. The grounds for this motion are set forth in the BMS Defendants’ Memorandum of Law in Support of Their Motion in Limine to Exclude All Evidence Relating to ApotHEcon Inc.

WHEREFORE, for the reasons set forth in the memorandum described above, the BMS Defendants respectfully request that the Court grant their motion and enter an order:

- a. excluding all evidence relating to ApotHEcon, Inc.; and
- b. providing such other and further relief as the Court deems just and proper.

Dated: Boston, Massachusetts
October 10, 2006

Respectfully Submitted,

By: /s/ Thomas E. Dwyer (BBO No. 139660)
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CERTIFICATE OF SERVICE

I certify that on October 10, 2006, a true and correct copy of the forgoing document was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy of the same to LexisNexis File & Serve for posting and notification to all parties.

/s/ Lyndon M. Tretter
Lyndon M. Tretter